

by Brenda Thomas against her dismissal from the post as lecturer in sociology at the University.¹⁹

Fox L.J. took the view that a trust, governed by the general law, removed the matter from the jurisdiction of the Visitor. Similarly, a contract between the University and a member of the corporation, being a contract "which does not involve matters relating to the internal relationship between the corporation and the member arising out of the constitution of the corporation"²⁰ will take the matter from the Visitor and repose it in the courts. Fox L.J. doubted the correctness of *Hines v Birkbeck College*²¹, holding that where the action is based upon contract law, it may be determined by the courts, even where a Plaintiff also claims that a dismissal is in breach of the statutes or regulations of the University. This was because once a court was seized of an action based upon alleged contractual breach, it had power also to deal with whether University rules and procedures had been complied with. Some things, the judge thought, were certainly within the powers of the Visitor — marking of examination papers, awarding of prizes, choice of fellows, admission and motion of members, the resolution of questions of the academic standards of a University teacher or a student.²² But an essentially contractual case can be the subject of litigation in the courts.

Lloyd L.J. held to the same effect. He relied, to some extent, upon a Western Australian case²³, in which it was held

that a difference as to the proper construction of the academic's contract with Murdoch University was not an internal or domestic matter. The judgment is frankly critical of the reasoning in *Hines*.²⁴

It will be apparent that the choice of jurisdiction for those acting on behalf of

aggrieved university academics is often one of considerable subtlety and importance. The Victorian legislative reform should be adopted in the other states: it ensures that modern administrative law remedies are not restricted by anachronistic doctrine. It decreases the possibility of a case being taken to the wrong forum.

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A university for Western Sydney: a case study in educational policymaking

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This article examines proposals for a university in Western Sydney as an example of policymaking in post-secondary education. The State and Federal framework of post-secondary education is sketched, and some features of Western Sydney's society are depicted, before the movement for a Western Sydney university is outlined and options discussed.

Much has been written about systems of governance in Australian post-secondary education. Karmel provides an orthodox view of the balance of power between federal and state governments, emphasising that the former provides virtually all the funding for universities and

CAEs as well as a proportion of capital and recurrent costs in TAFE.¹ Karmel argues that while the Federal Government demands unpopular changes from time to time, especially the rationalisation of programs and institutions, the odium for such change often falls upon the states.² But what powers and prerogatives are enjoyed by state authorities and in particular by state governments themselves? Galligan *et al* have drawn attention to state level politics and policymaking³ and Harman has discussed educational policymaking at state level, with emphasis on schools.⁴ But it seems true to say that those writing on policy on post-secondary

education, including the present writer, have gone too far in their emphasis on federal inputs and have not stressed sufficiently the power of state-level forces.⁵ It does seem true that the Commonwealth has the overwhelming power of finance over the states: and since states are generally reluctant to pay for educational initiatives themselves, they seem to have little power especially over higher education except that of negotiating the means whereby federal assistance will be given. And yet it is still true that much can be done by state authorities when they stand out against the Federal Government for policies which they feel to be politically

desirable. The present case study provides a useful test for these claims.

The Western Sydney context

Before going further, it is essential to outline the most important features of the Western Sydney region. People tend to cluster together in Australian cities according to status, income, ethnicity and religion. In Sydney the most affluent choose to live around the harbour foreshores and along the north shore line; the poorest are forced to live in some inner city areas and on the west and southwest fringes of the city. The one million who now live in the constituent councils of the Western Sydney Regional Organisation of Councils make up a region which comprises about one-fifteenth of the population of Australia. Historically the region has been part of Sydney but because of Sydney's continuing growth, worsening traffic and worsening public transport, it is beginning to take on a separate identity. As Parramatta grows as a commercial and government centre, the region will become more self-sufficient than ever and its educational and other needs will become more difficult to service from eastern Sydney. For part-time students in particular, travel from Parramatta or Blacktown to any existing university and travel home afterwards is not a viable option.

Educational provision in Western Sydney is poor and educational success is, on average, low. There are some excellent schools in the region, and there are high rates of retention in the high status areas of Baulkham Hills, Castle Hill and the Lower Blue Mountains. Other parts of the region tend to have low school retention rates and below average achievement at the Higher School Certificate. TAFE is well represented in the region, with a very large and diverse college at Granville as well as colleges at Baulkham Hills, Penrith, Mount Druitt, Blacktown and another from 1987 at Werrington. There is a scattering of CAEs, with an agricultural college at Richmond, a paramedical college at Lidcombe and one general purpose CAE, with campuses near Parramatta and Penrith. Educational attainment in the region is uneven, with 1.4 per cent holding a degree or diploma in Blacktown and 5.7 per cent in Baulkham Hills. But the accelerating development of the region has greatly increased its political strength.

The emergence of an issue

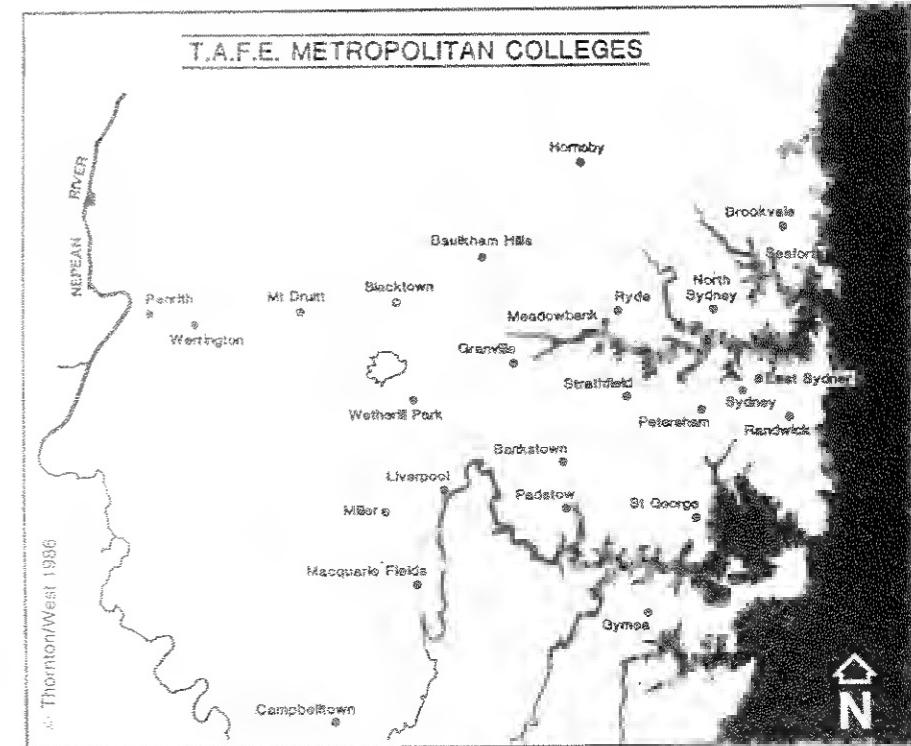
As Western Sydney has increased in size, so have its state and federal electorates increased. Demands for better facilities were sharpened after the establishment in 1980 of WSROC, the Western Sydney Regional Organisation of Councils, specifically to articulate the region's

needs and obtain for it better facilities by lobbying governments and working on the media. In co-operation with Mr Laurie Breton, then Minister for Health, WSROC organised support within the Labor Party and the labour movement for moving hospital beds from inner Sydney to Western Sydney. But it has proved more difficult to demonstrate education as a regional need than it was for hospital care.

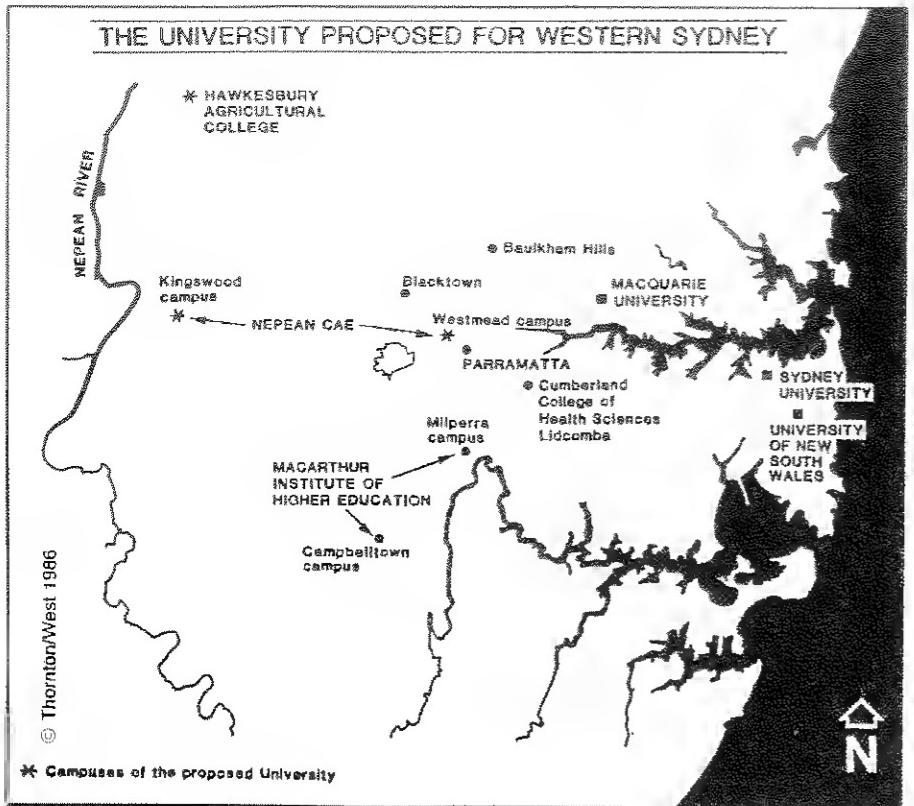
The demand for a university in Western Sydney can be traced back at least ten years.⁶ After years of no progress on the issue, the question of better educational facilities for both Western Sydney and Western Melbourne was taken up by the Commonwealth Tertiary Education Commission (CTEC), which commissioned a report on the matter in 1983.⁷ The Report was done in-house and bears all the marks of having been hastily written. But its basic arguments have not been challenged: Western Sydney and Western Melbourne are two of the largest regions in the nation's two largest cities. Each has very large proportions of young people and each is assured of continuing to remain young, both because of natural growth and migration. But neither region has the educational facilities which these young people require. Although the needs of the two regions were different, the Report noted — Western Sydney had adequate TAFE facilities, for example, while Western Melbourne did not — both had outstanding needs which governments were urged to address. Little has been done since that Report appeared, although some funds have been released

for new capital developments in the regions and more students have been enabled to enter regional institutions, but mainly at the punishing marginal rates of funding which the Hawke Government has provided. Thus the demand for better educational facilities in the two regions has continued despite these very modest gains.

Why did the university for the West issue take off when it did? Cobb and Elder's book on interest articulation discusses the need for articulate people to take up an issue and force it onto the agenda of a political system if the issue is to be acted on.⁸ The difficulty in the case of Western Sydney and Western Melbourne is that articulate people tend to leave the area as soon as promotion, or better personal finances, permit it. As Pareto explains, elites conscript those from lower groups who are able and articulate and use such people to protect themselves.⁹ That the university issue continued to surface in Sydney is due to the untiring efforts of WSROC, to the interest of the media (especially the *Sydney Morning Herald*) in the issue, and above all in the growth of a powerful group of Western Sydney MPs at State level. Led by Deputy Premier Ron Mulock, the group has proved to have very considerable clout in State politics, as Mr. Mulock's election to the Deputy Premiership itself showed. Despite all the power of inertia and the might of established institutions, the group's demands for a university in Western Sydney had provoked governments into action by 1985. As Hogwood and Gunn stress, an issue will



THE UNIVERSITY PROPOSED FOR WESTERN SYDNEY



emerge on a government's agenda if it seems urgent, if it has emotive power, if it has potential for wide impact and if it raises questions of legitimacy and power.¹⁰ All of these became true in 1985-86 when politicians caught the shift in mood which gave a university for the West popular appeal as a slogan. Hogwood and Gunn also argue that the political payoffs are higher for the creation of new policy than they are for the continuation of existing policy.¹¹ It was clearly to MPs' benefit to be outspoken about the need for a university of the West, much more so than for them merely to argue for increased resources to existing CAEs in the region. The local and State media reinforced and encouraged the action of the MPs and WSROC in their demands, and the federal authorities' attempts to kill the issue only made the protagonists more determined to promote it.

The Parry Report and its recommendations

In 1985 the national government's discussions with state governments and state co-ordinating authorities in Victoria and New South Wales bore fruit. Action was begun towards better post-secondary educational facilities for both Western Sydney and Western Melbourne, but the action chosen differed dramatically. The Victorian Government and CTEC set up a working party dedicated to the idea of a cross-sectoral institution for Western

- would go over to the new university.
- 2. Other institutions could choose to join the university in addition to these.
- 3. A central administration would be located on a campus located somewhere between Parramatta and Blacktown. It would validate awards granted by the constituent campuses and allocate funds to them. On the same campus would be offered general courses in arts, science and social sciences.
- 4. An interim Board of Governors would work with the N.S.W. Higher Education Board towards the opening of the new institution, and, the Report adds in a brilliant aside, this could happen on 1st January 1987.¹² That comment did not go unnoticed.

The Report's reception

The Parry Report was released to the media early in February, 1986 and was initially well received by local MPs and regional leaders. It was also supported by the NSW Teachers Federation, which had supported the State University concept in its submissions, and which could expect to be very strongly represented in the proposed State University. The Report has been opposed by Macquarie University and the NSW Institute of Technology, each of which has expressed interest in the idea of a satellite campus in the Parramatta area. Some academics also seem to have been concerned that the acceptance of the Report would mean the end of the binary system.

However, Federal Government reaction to the idea of any new university was negative. At the same time, concern was expressed in a number of quarters about issues which the Report does not satisfactorily address:

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However, Federal Government reaction to the idea of any new university was negative. At the same time, concern was expressed in a number of quarters about issues which the Report does not satisfactorily address:

 1. Could CAE staff be taken over in their entirety and function as university staff? The Report argues that staff would be expected to emphasise teaching rather than research, although research would be done to a minor degree. Would early retirements, staff development and increased funding assist this process, or is it too much to expect that staff used to one set of expectations can adjust to another? Although there are precedents for this policy (such as the formation of Deakin University out of two CAEs), none of them has proved easy to implement.
 2. Could the Federal Government resist the proposals, which clearly addressed perceived needs in one of Labor's heartlands? Given the declarations of support for the proposal by Mr Wran, Mr Mulock and a large number of state and federal MPs, how long could Senator Ryan continue to oppose the idea?
 3. Most of the politicians' discussions bogged down on what a State University was, and whether the institution as proposed would be the university desired by politicians and WSROC. The difference between a CAE and a university has been debated ever since the Martin Report appeared in 1964-65. Every time a new definition has been arrived at, the institutions have evolved again, rendering the definitions archaic.¹³ In their earliest days, CAEs did not grant degrees. Now their offerings range from sub-degree work to bachelors and in many cases masters degrees; the most prestigious of them are making arrangements to offer doctoral degrees in co-operation with universities. A State University would change these differences again, and raise the question of funding more urgently than ever: how long could a state-funded university remain state-funded? What would its chief administrators be called, and what degrees would be offered? Since the amalgamations at Townsville and Wollongong, Australia has had regional institutions which provide their regions with most of their needs in higher education. The proposed institution for Western Sydney would be another such institution, one which would blur the difference in the binary system so much that they would become more difficult to define than ever. As doubts proliferated, politicians' support for the State University decreased. Instead, they began to argue for an institution of excellence.
 4. A meeting was finally held in Sydney on 23 April. Those present included NSW Premier Neville Wran, Deputy Premier Mulock, Senator Susan Ryan and state MPs from Western Sydney. The meeting agreed to the establishment of a university in the West, but Senator Ryan persuaded it to change that phrase to "a university presence". The meeting also agreed to study the options which would make this available and to reconvene as the University of Western Sydney Advisory Council on 23rd August 1986. The April 23 agreement demonstrated once again the strength of politics in educational policymaking, and the strength of state level politics in particular. (See Appendix.) It is worth noting that in the long battle between state and federal authorities, the bulk of the fighting was done between governments, not between the co-ordinating authorities. But while in Melbourne Federal-State cooperation has led to the swift establishment of a new institution, young people in Western Sydney will have to wait for agreement between New South Wales and Federal Governments before their educational opportunities improve.

The options

At present there appear to be four possibilities for the proposed university. A State University seems no longer one of them. The first is to build on existing institutions. It could be that one of the CAEs in the region could be used as a basis for the new university. The new institution could then take over part or all of a campus, and/or some facilities, of a CAE. This has the virtue of speed, but academic excellence could be difficult to demonstrate. One variation would be a CAE / University or university/CAE/TAFE institution, but there is little apparent support for such an institution in the region.

"...whatever kind of institution is established, it must be dedicated to high standards of excellence in its research and its choice of academic staff."

The second option would be a university college. This has the merit of academic credibility. Unfortunately, the history of such phenomena is often a story of tension between the mother and daughter institutions. It could be in the interests of the former to keep the latter in infancy as long as possible, if not strangle it at birth. Support for this option is strong in Sydney's existing universities, but is less obvious in the region, despite support among Members of Parliament.¹⁴ If a university college is established, a sunset clause nominating an independence date is highly desirable.

The third possibility would be to establish a new, orthodox university. Again, this has the merit of academic credibility. The problem with this is that all the prestigious programs are well entrenched in existing universities and the NSW Institute of Technology. This would leave the proposed new university with, say, programs in current demand (especially in demand in Western Sydney) — arts, sciences, secondary teaching, public administration and some additional programs.

A variation on this option is to create a new, innovative institution. This would admit students, part or full time, internally or externally. Portability of qualifications, and close association with TAFE colleges and CAEs, would be a hallmark of such a body. The new institu-

tion could also demonstrate its bona fides to the region, e.g. by committing itself to research based on the region and by experimenting with a regional entry preference scheme as pioneered by Macarthur Institute in Sydney's southwest. A multi-disciplinary approach could be part of its brief.

Regardless of the option chosen, the new institution must address itself to three basic questions. First, the question of access: who will the new institution be for? This question is fundamental, yet it remains to be answered both in terms of social class and in terms of regional and non-regional entry. Second, the question of portability of qualifications has become more urgent with the upgrading in New South Wales of some TAFE certificates to associate diplomas. Students ought to be able to begin a TAFE course with the knowledge that its completion will gain them entry and/or entry with credit to university and CAE programs, and the new institution could be the ideal place in which to try out such arrangements. Third, whatever kind of institution is established, it must be dedicated to high standards of excellence in its research and an academic staff chosen on merit. These questions are not insoluble, though in the present budgetary climate, little can be expected for capital development until the 1990s. Given a refusal to accept easy solutions and a genuine search for excellence, the new institution in Western Sydney could become, in time, a highly respected institution. Let us hope that federal and state governments can now put aside their differences and plan the new institution in consultation with the Advisory Council and educational institutions in the region.

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Appendix

Press statement from meeting with Senator Susan Ryan and the Hon. Neville Wran held in Sydney on 23 April 1986

Proposed agreed statement by Senator Susan Ryan, Federal Minister for Education, and the Premier of NSW, Mr Neville Wran and members of the NSW Government.

- This meeting acknowledges the serious educational disadvantages of students in the western suburbs of Sydney
 - Recognises the need to support increased opportunities for all levels of education including university
 - Supports the strategy of extending the scope and quality of CAE places
 - Accepts as a matter of urgency the need to plan the establishment of a university presence in the western area

And therefore

The Commonwealth and the NSW

Governments through the CTEC and the HEB will co-operate with existing CAEs in the region and existing universities in Sydney and the proposed University of Western Sydney Advisory Council, to investigate the most appropriate model of a university campus development, to determine resource implications and prepare a timetable for the fulfilment of an agreed purpose.

The federal and NSW ministers will keep a close watching brief on the work of the various agencies of government and will receive jointly reports arising from their deliberations.

This meeting proposes to reassemble to receive the report on these deliberations due no later than 31 August 1986.

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Performance appraisal of university academics: issues and implications

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The current concern with declining financial resources in Australian universities has, in turn, given rise to a preoccupation with increased efficiency and effectiveness. Increasingly, the efficiency and effectiveness of university departments as a whole is being examined: individual departments in various universities have been the subject of departmental reviews. A second level at which efficiency and effectiveness may be examined is, of course, at the level of the individual academic. Most, if not all, universities in Australia have considered instituting procedures for staff development to enhance the efficiency of individual academic staff members. Some universities' efforts to institute staff development procedures are more advanced than others. Staff development is defined in one case as the 'provision of broad support required by each individual academic to strive consistently towards superior achievement in at least the main aspects of university work: teaching and research or other creative scholarly activity'.¹

While the question of staff development seems to have been posed generally in positive terms (by, for example, involving the individual academic in initiating self-assessment procedures in relation to teaching and other duties), the question of individual performance review (referred to here as performance appraisal) has caused some unease amongst academic staff. At the time of writing, FAUSA policy has moved from its earlier position of implacable opposition to performance appraisal for individual academic staff members to something of a policy hiatus. On largely pragmatic grounds, FAUSA will not at the moment oppose performance appraisal procedures provided acceptable guidelines under which performance appraisal will proceed can be established.² These guidelines have yet to be finalised.³

This paper explores issues and implications relating to the introduction of performance appraisal of individual

constructive, unconstrained by "special" merit considerations (such as tenure, study leave, promotion) or punitive considerations (such as deferral or denial of tenure or dismissal). Where the performance appraisal procedures can involve some sort of benefit/penalty such as those just mentioned, the process will be less objective, more threatening and will disincline individual staff members from constructive self-criticism of their performance. Because of the limitations placed on managerial freedom by tenure and the nature of the national pay scale, in my view performance appraisal for tenured academics will have to rely for its results on persuasion toward better performance. The "special" considerations (in the sense that they arise only infrequently) just mentioned should be formally divorced from the on-going performance appraisal procedures. Decision on these "special" issues should be the subject of separate enquiry.

Consideration of the performance appraisal process might best be done by considering the following matters:

- Appraisal of what?
- Appraisal by whom?
- Frequency of appraisal
- Communication of appraisal results
- Major problems
- Designing an appraisal system
- Choosing an appraisal method

These matters will be considered in turn.

Appraisal of what?

Appraisal of an academic's performance is concerned with evaluating behaviour or results. But just what behaviour or results to focus on can be problematical. The appraisal system should have been designed to achieve an identified purpose and should help to identify what aspects of performance to measure. The items which can be measured fall into three categories. These are:

- (i) individual task outcomes (e.g. number of work items completed, tests done, papers written, etc.);
- (ii) individual behaviour (e.g. particular actions taken in discharging one's workload);
- (iii) individual traits (e.g. intelligence, attitudes, initiative, expectations, skills, etc.).

It must be recognised that some task outcomes will be beyond the control of an individual academic. For example, a research project might depend on team collaboration, a teaching programme might depend for its success on the co-operation of staff in another university department, or on the availability of funding and other resources from year-to-

year. Assessment of an individual's performance on the basis of these task outcomes would be fraught with difficulty.

On the other hand, the evidence seems to suggest that possession of individual traits is of doubtful relevance in assessing an individual's performance. Mere possession of a given trait does not mean that it will be applied effectively on the job.

As a matter of practice, therefore, appraisals of individuals are best directed to assessing individual behaviour contributing to job performance and job achievement.

A performance appraisal scheme thus has to identify relevant criteria on which an academic is to be appraised. The starting point for this exercise will be some form of job analysis in which a job description — a statement of the essential duties of the job in which an appraisal is to be made — is prepared. The job description will identify the aspects of a job (or criteria) to be evaluated. In selecting the criteria, three basic considerations arise. Criteria must be:

- relevant insofar as they relate to the objectives of the job;
- free from contamination, e.g., where the same criteria apply to more than one lecturing job, the conditions and facilities available to each lecturer should not vary qualitatively to any significant extent;
- reliable insofar as a particular criterion must be stable and consistent for repeated use over time.⁵

Once the criteria have been identified, they can be translated into performance standards. Performance standards indicate the level of performance needed to be attained for the job to be well done. Good ratings are a by-product of doing the job well. Where possible, performance standards will be set in quantifiable terms. Academic staff might well be more commonly assessed on qualitative standards because teaching, research and administrative duties do not typically lend themselves to quantitative measurement.

It is not possible to suggest detailed criteria and performance standards here. Academic jobs vary sufficiently across (and perhaps within) different schools and faculties to require specific criteria and performance standards to be developed for groups of like jobs. Considerable preparatory work would have to be done within universities to determine appropriate criteria and standards as part of the development of performance appraisal systems. Selection of criteria will be problematical. But an appraisal system not specially designed for an academic environment — or particular areas of academic work — is not likely to be effective and might well alienate academic staff.

Appraisal by whom?

Performance appraisal may generally be undertaken by one or more of the following:

- supervisors
- peers
- employee to be appraised (self-appraisal)
- subordinates of the employee to be appraised
- people outside the immediate organization, e.g., students, clients, etc.

Which of these sources of appraisal is most appropriate depends on (i) the purpose of the appraisal, (ii) the criteria being used, and (iii) the type of employee being appraised.⁶

To be qualified to evaluate others, the appraiser should meet certain requirements. These are:

- opportunity to observe: the appraiser must be in a position to collect all relevant information about the person being appraised. This could involve personal observation, access to records, and access to others who have a direct knowledge of the appraisee;
- understanding of job requirements and standards of satisfactory performance;
- having an appropriate point of view, i.e., the appraiser's own work objectives should not be in competition or at odds with the work objectives of the appraisee.⁷

Thus, where the purpose of an appraisal is to develop the employee, the aim will be to identify performance strengths which might be enhanced, and deficiencies which might be reduced or eliminated in the future. The objectives of the appraisal are more likely to be met if a positive atmosphere is developed. This might best be achieved through two-way discussions of the appraiser's judgements and self-appraisal by the academic.

Where an academic has specialised skills not shared by his/her supervisor, the supervisor will not be qualified to do the appraising. This could arise where a dean or head of department does not possess the subject expertise to appraise specialist research work in a field outside his/her own specialisation, e.g. a dean of a science faculty who is a specialist in biology might otherwise be called on to appraise critically the research efforts of a nuclear physicist. In such a case, it might be more appropriate to rely on peer appraisal and self-appraisal. These two forms of appraisal have been found to be most effective under conditions of high interpersonal trust when the appraisal is directed towards staff development con-